AO 91 (Rev. 5/85) Criminal Complaint — AUSA Daniel Hurley/SA Mathew Smith, FBI

ORIGINAL

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United States District Court

EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

v.

CHARLES PROCTOR
23328 Baker Street
Taylor, Michigan

CRIMINAL COMPLAINT

CASE NUMBER: 06-30377

FILED
AUG 0 1 2006
CLERK'S OFFICE
DETROIT

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 24, 2005 in Wayne county, in the Eastern District of Michigan defendant(s) did, (Track Statutory Language of Offense)

Knowingly make a material false statement within the jurisdiction of the Federal Bureau of Investigation.

in violation of Title 18 United States Code, Section(s) 1001
I further state that I am a(n) Special Agent and that this complaint is based on the following facts:

(SEE ATTACHED AFFIDAVIT)

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant
Mathew Smith, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

August 1, 2006 at Detroit, Michigan
Date — City and State

DONALD A. SCHEER
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT OF MATHEW G. SMITH

I, Mathew G. Smith, being duly sworn, deposes and states as follows:

1. I am a Special Agent with the Federal Bureau of Investigation. I am a law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, in that I am empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 241 of Title 18, United States Code. I have been so employed by the Federal Bureau of Investigation for the past four (4) years. I have participated in and conducted investigations involving Public Corruption, Civil Rights, Fraud against the Government and Terrorism for the past four (4) years.

2. I have participated in the investigation of CHARLES PROCTOR and others for violations of several federal criminal laws. As a result of my personal participation in this investigation, interviews with Special Agents of the FBI and review of their reports, I am familiar with all aspects of this investigation. The information below is based upon my personal knowledge, as well as information from other law enforcement officials, including the Taylor, Michigan Police Department, witness interviews, documents and other evidence I have reviewed.

3. I have not included every fact regarding the investigation in this affidavit. I have included only those facts necessary to show there is probable cause to believe that CHARLES PROCTOR violated 18 U.S.C. § 1001. I know that it is a federal crime, punishable as a felony offense under 18 U.S.C. § 1001, to knowingly and willfully make a materially false statement to a Federal Law Enforcement Official concerning a matter within the jurisdiction of the executive branch of the government of the United States. I also know that it is a federal offense, punishable under 18 U.S.C. § 241, to conspire to oppress or intimidate any person in the free exercise and enjoyment of rights secured under the laws and Constitution of the United States. I also know that it is a federal offense, punishable under 42 U.S.C. § 3631, to willfully intimidate and interfere with another person because of their race, and because they were purchasing, renting or occupying a dwelling, by the actual or threatened use of force, and through the use or attempted use of fire. I further know that it is a federal offense, punishable under 18 U.S.C. § 844(h), to use fire to commit any other federal felony offense.

4. On the night of July 28-29th, 2002, a fire was set at the residence of Lori and Reginald Doster, an African-American couple, at 5948 Ziegler St., Taylor, Michigan. The Doster residence was located in a predominantly white neighborhood with a history of racism and prejudice. The Dosters had purchased the residence in July 2002 and were in the process of cleaning up the residence before they moved in. They had not yet fully moved in at the time of the fire but had been working on the residence on a daily basis for a few weeks.

5. Responding officers from the Taylor Police and Fire Departments found that the back window of the Doster residence had been broken out. The window area and the surrounding wall area of the house had been damaged by the fire. Visual inspection of the fire area indicated the presence of an accelerant. The Michigan State Police Laboratory tested two samples taken from the area of the fire and determined the presence of gasoline, a known accelerant.

6. The Doster residence was on the northwest corner of Ziegler and Avalon streets. Immediately south of 5948 Ziegler, across Avalon and on the southwest corner of the intersection, lived the Mullins family, at 6080 Ziegler. During all pertinent times, Kathleen Mullins owned and lived in that residence. Wayland Mullins, Kathleen's son, has lived with his mother at 6080 Ziegler intermittently over the past several years, and was living there during July 2002.

7. Numerous witnesses, among them Guy Wurts, Michael Richardson, Terry Richardson and others, have described the Mullins' house as the principal "hang-out" spot in the neighborhood. According to these witnesses, throughout the summer of 2002, a group of men would gather on a nightly basis in the garage at the Mullins' residence to work on automobiles, drink, do drugs and play pool. Witnesses have indicated that this group of men usually included some combination of Lee Vanderlinden, Terry Richardson, Mike Richardson, Rick Wesley, Ted Roach, Charles Proctor, Corey Jarrell, Donald Flower, Mike Ridge, Wayland Mullins, Guy Wurts and others. These gatherings at the Mullins residence would often last until 2:00 to 3:00 a.m.

8. Michael Richardson has admitted that he was at the Mullins house on the night of the fire at the Doster residence. Richardson has stated that he witnessed Wayland Mullins set fire to the Doster house, and that numerous other men were present at the Mullins house/garage as these events unfolded. Richardson initially denied knowing who set the fire, denied whether anyone else was involved, and denied watching the fire being set. After failing a polygraph examination relating to whether he knew anything about the fire, Richardson admitted that he knew that Wayland Mullins had set the fire. Richardson was subsequently charged with violating 18 U.S.C. § 1001, based upon his falsely denying having any knowledge about the fire. During the course of that prosecution Richardson consistently maintained that Wayland Mullins had admitted being responsible for the fire. Richardson failed to be truthful, however, about whether he was present at the scene of the fire, and what role he played in those events. After being sentenced to a term of imprisonment of 48 months for the 18 U.S.C. § 1001 charge, and after being indicted for failing to surrender as ordered by the court to begin serving that sentence, Richardson gave a series of additional interviews. Most of these were "proffers" conducted with his attorney present. During those proffers, Richardson later admitted that he was there as Mullins discussed setting the fire. Richardson further stated that several other individuals were also present on the night of July 28, 2002, "hanging out" in the Mullins garage as he and Wayland Mullins discussed setting fire to the Doster residence. Richardson also admitted that he and these other men witnessed Mullins set the fire.

9. During an interview with his attorney on November 10, 2005, Richardson specifically identified Rick Cotton as one of the men who was at the Mullins' house on the night of the fire and who was involved in the discussions regarding setting fire to the Doster residence. When questioned by law enforcement on December 21, 2005, however, Cotton initially denied being anywhere near the Mullins house on that weekend. After failing a polygraph examination on the subject of whether he had any knowledge of the fire, Cotton then admitted that he was there that night, but did not recall any talk of a fire. Cotton testified to that effect before a federal grand jury, but was subsequently charged with making a false statement to a federal law enforcement officer.

10. After his indictment on that charge, Cotton agreed to be interviewed as part of the proffer process. Cotton was interviewed, in the presence of his attorney, on June 19, 2006. Throughout that interview, Cotton maintained that Wayland Mullins set the fire at the Doster house, and that he did so in order to drive the African-American family from the neighborhood on account of their race. Over the course of the interview, Cotton made a number of concessions. After initially denying that he witnessed Mullins set the fire, Cotton ultimately admitted that he saw Mullins set the fire, and that Michael Richardson was at the window of the Doster home with Mullins when the fire was set. Cotton also had initially denied knowing in advance that Mullins intended to set fire to the house, but later admitted that Mullins, Richardson and several other men had openly discussed setting the fire to drive the family from the neighborhood. Among these other men identified as having been part of the group in the Mullins' garage discussing the fire that night was CHARLES PROCTOR.

11. CHARLES PROCTOR is a close friend of Cotton's, and Cotton initially stated that Proctor did not witness the fire. Over the course of the proffer interview, after several discussions with his attorney, and after failing a polygraph examination on the issue of whether he was telling the whole truth, Cotton then confessed that he had been trying to protect Proctor (and himself) by falsely claiming they had no involvement in the fire. Cotton then admitted that he, PROCTOR and the other men all knew of the plan to set the fire to the Doster house, and in fact had been encouraging and inciting Mullins and Richardson to go forward with the fire. Cotton described his role, as well as PROCTOR'S, as "egging them on" and daring them to set the fire. Cotton also stated that he and PROCTOR stood next to each other and watched Mullins set the fire. After Mullins set the fire, PROCTOR was among the group of men who congratulated Mullins for setting the fire.

12. On August 24, 2005, I interviewed PROCTOR regarding his knowledge of the fire at the Doster home. At that time PROCTOR denied knowing anything about the fire, and stated that he had no information regarding who was responsible for the fire.

13. Based on the foregoing, I respectfully submit that there is probable cause to believe that on August 24, 2005, CHARLES PROCTOR knowingly and willfully gave a materially false statement to federal agents concerning a matter within the jurisdiction of the executive branch of the government of the United States, in violation of 18 U.S.C.§ 1001.

MATHEW G. SMITH
Special Agent, FBI

Subscribed and sworn before me
this 1 day of August, 2006
at Detroit, Michigan

DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE